

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
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In the Matter of )  
)  
Southwestern Bell Telephone Company, Pacific Bell, )  
and Nevada Bell Petition for Relief ) CC Docket No 98-91  
from Regulation Pursuant to Section 706 of the )  
Telecommunications Act of 1996 and )  
47 U.S.C. §160 for ADSL Infrastructure and Service )

COMMENTS  
OF THE  
UNITED STATES TELEPHONE ASSOCIATION

The United States Telephone Association ("USTA") hereby files its comments in response to the Commission's Notice<sup>1</sup> and the Petition filed by Southwestern Bell ("SBC").<sup>2</sup> USTA is the principal trade association of the incumbent local exchange carrier industry ("ILECs").

In its Petition, SBC seeks relief from regulations, pursuant to Sections 706 and 10<sup>3</sup> of the Telecommunications Act of 1996 ("Act"),<sup>4</sup> to deploy asymmetrical digital subscriber line ("ADSL") infrastructure and services. USTA supports SBC's Petition and recommends expedited approval by the Commission of this Petition and the Petitions filed by Bell Atlantic,

<sup>1</sup> Public Notice DA 98-1111, released June 11, 1998.

<sup>2</sup> SBC Petition filed June 9, 1998.

<sup>3</sup> 47 U.S.C. §160.

<sup>4</sup> 47 U.S.C. §151, *et seq.*

U S WEST and Ameritech to deploy advanced data and Internet networks.

As SBC explains, it seeks relief from any unbundling obligations, any wholesale discount obligation, dominant treatment of ADSL, and application of most favored nations treatment of Section 252(i)<sup>5</sup> of the Act which is inconsistent with the relief requested in its Petition.<sup>6</sup> SBC proposes to provide unbundled ADSL-capable loops on a non-discriminatory basis, collocation for ADSL equipment, and ISP bundling of ADSL.<sup>7</sup>

Clearly, deployment of ADSL broadband services, as proposed by SBC, is in the public interest. As Chairman Kennard stated recently:

I have an abiding and unabashed faith in the power of the free market to deliver the best, most innovative and cheapest communications services. We cannot legislate or regulate to stop technological change. And we cannot legislate or regulate the power of the market to drive change ....

Like its appetite for ever increasing computing power, I believe our nation will have an ever more voracious appetite for data transmission capacity, sometimes called "bandwidth."

The key to satisfying this appetite will be to create real opportunities for companies to compete to deliver high bandwidth services over the "last mile" to all consumers .... Competition in our backbone networks today is ... increasing the capacity and speed of the backbones. We need to bring that competitive drive to expand capacity and improve service to the final links to consumers.<sup>8</sup>

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<sup>5</sup> 47 U.S.C. §252(i).

<sup>6</sup> *SBC Petition* at 5-6.

<sup>7</sup> *Id.* at 17-21.

<sup>8</sup> Remarks of FCC Chairman William E. Kennard at the Congressional Economic Leadership Luncheon, June 17, 1998, [www.fcc.gov/Speeches/Kennard/spwek817.html](http://www.fcc.gov/Speeches/Kennard/spwek817.html).

USTA agrees with the sentiments of Chairman Kennard that market forces, not more regulations, will provide the incentives for infrastructure investments required by ILECs to deploy advanced telecommunications networks, provide greater bandwidth capacity through ADSL, and provide the innovative services derived from such networks and deployment of ADSL infrastructure and services demanded by consumers. Removal of regulatory constraints imposed upon ILECs, who seek to compete in data and Internet markets, is critical to reforming regulatory policy that has denied consumers the benefits of competition.

SBC's proposals are consistent with the requirements of Section 706 of the Act that the Commission undertake action to promote the deployment of advanced telecommunications networks and services by removing regulatory barriers to infrastructure investment. In addition, Section 10 of the Act provides that the Commission "shall forbear from applying any regulation or any provision of [the] Act to a telecommunications carrier ..." when the Commission determines that (1) regulations are not necessary to ensure that "charges, practices, classifications, or regulations" for telecommunications services provided by a telecommunications carrier are "just and reasonable and are not unjustly or unreasonably discriminatory," (2) regulations are not needed to protect consumers, and (3) "forbearance is ... consistent with the public interest."<sup>9</sup> USTA has consistently argued that the public demand for bandwidth capacity, the already competitive data and Internet markets, and global competitiveness of American businesses necessitates a new regulatory paradigm in which market forces, not arcane regulations based on fallacious theories, must drive the deployment of

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<sup>9</sup> 47 U.S.C. §160(a) (1) (2) & (3).

advanced telecommunications networks and services.<sup>10</sup>

The failure to rely on market forces to meet the ever increasing demand for bandwidth capacity will only serve to delay deployment of advance telecommunication networks and services. Prior history provides clear evidence of the negative consequences associated with imposing needless regulations regarding network and service innovations. Rapid deployment of voice messaging and cellular services was adversely impacted because of regulatory barriers imposed by the Commission. As Professor Jerry Hausman<sup>11</sup> and Richard Schmalensee and William E. Taylor<sup>12</sup> concluded in separate studies, billions of dollars per-year in consumer welfare was lost in the deployment of voice messaging and cellular services because of unnecessary delays caused by regulatory constraints.

USTA urges the Commission to grant SBC's Petition. The public interest benefits of

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<sup>10</sup> See, e.g., *USTA Comments and Reply Comments In the Matter of Petition of Bell Atlantic for Relief from Barriers to Deployment of Advanced Telecommunications Services*, CC Docket No. 98-11, *Petition of U S WEST for Relief from Barriers to Deployment of Advanced Telecommunications Services*, CC Docket No. 98-26, *Petition of Ameritech for Relief from Barriers to Deployment of Advanced Telecommunications Services*, CC Docket No. 98-32, April 6, 1998 and May 6, 1998; *USTA Comments and Reply Comments in Petition of the Alliance for Public Technology Requesting Issuance of Notice of Inquiry and Notice of Proposed Rulemaking to Implement Section 706 of the 1996 Telecommunications Act*, CCB/CPD 98-15, RM 9244, April 13, 1998 and May 4, 1998; *USTA Comments In the Matter of Petition of the Association for Local Telecommunications Services (ALTS) from a Declaratory Ruling Establishing Conditions Necessary to Promote Deployment of Advanced Telecommunications Capability Under Section 706 of the Telecommunications Act of 1996*, CC Docket No. 98-78, June 17, 1998. The above-referenced comments are incorporated by reference and made a part of USTA's comments in this proceeding.

<sup>11</sup> See *USTA Comments* at 17, CC Docket Nos. 98-11, 98-26, and 98-32, April 6, 1998.

<sup>12</sup> See *USTA Comments* at 8, CC Docket No. CCB/CPD 98-15, RM 9244, April 13, 1998.

increased competition, consumer choices, lower prices, and the competitiveness of American citizens and businesses in a global economy outweigh any unsubstantiated predictions of harm from ILEC competitors. By granting SBC's Petition, and the RBOC Petitions filed by Bell Atlantic, U S WEST, and Ameritech, the Commission will provide the leadership intended by the Act to ensure that advanced telecommunications networks, including ADSL infrastructure and services, are rapidly deployed by ILECs throughout the country. Market forces, not government regulations, must drive competition with consumers determining winners and losers among alternative providers of telecommunications services.

Respectfully submitted.

**UNITED STATES TELEPHONE ASSOCIATION**

June 24, 1998

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